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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)
WRIT PETITION No. 2400 /2006

SINGLE BENCH

Petitioner : Shyam Rathi,
Aged about 56 years,
S/o of Late Shri Bal,Kunwar,
Qtr No: 234, Shanti Nagar,
Rajnagar Colliery,
Hasdeo Area.
Dist. Anuppur (M P)

Versus

Respondents

(1) South Eastern Coalfields Limited
Through its Chairman-cum-Managing Director
Seepat Road,
Bilaspur (CG) – 495 006

(2) Chief General Manager,
South Eastern Coalfields Limited
Hasdeo Area.
Dist. Manedragarh (M.P)

(3) The Sub Area Manger,
South Eastern Coalfields Ltd,
Rajnagar,
Hasdeo Area
Dist. Manendragarh (M.P)

P.R. No. 2457/06 Shyam Rathi
Present
dated 5/5/06

Writ Petition under Article 226 of the Constitution of India.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP(S) 2400 सन् 06 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

9-5-2006

Mr. G. Mukhopadhyay, counsel for the petitioner.

Mr. Pravin Das, Advocate, is directed to take notice on behalf of respondents No.1 to 3.

Learned counsel for the petitioner has supplied extra copy of the petition to learned counsel for respondents.

Heard learned counsel for the parties.

The case of the petitioner is that he was born at village Murpuhkan, P.O. & village Piparadi, District Gorakhpur (UP) in the year 1951. He is an illiterate person as he had not studied in any school. The petitioner was appointed as underground loader in Rajnagar colliery on 26.6.1972 and as per the provisions of Mines Act, the date of birth of the petitioner was recorded in Form B Register as 21 years as on 26.6.72 that is how the date of birth of the petitioner is 26.6.51. The Form B Register is a statutory register. The petitioner is a member of Coal Mines Provident Fund constituted under the Coal Mines Provident and Miscellaneous Provisions Act. The CMPF account number is A/4/54/27 P. It is submitted that the date of birth recorded in CMPF record has also been recorded as 22 years as on 16.2.73. Respondents authorities did not comply with the Rule 77 of the Amended Mines Act and Rules, 1980 which envisages that 'The register required by sub-section (1) of Sec.48 shall be maintained in Form-B keeping separate page for each person employed in mine.' The respondents have wrongly recorded the age of the petitioner in 1987 in the service excerpt as .26 years as on 26.6.1972, though CMPF records clearly shows that the age of the petitioner was 22 years as on 16.2.73 as per Annexure-P/4. The petitioner made a representation to the

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आदेश पत्रक

मामला क्रमांक WP 2400/06 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent No.3 for correction of his date of birth or refer the matter to the Medical Board. The petitioner was under the impression that his date of birth would be corrected as assured. The petitioner also requested respondent No.3 to send him to the Medical Board/Age Determination Committee, but the same has not been done.

Having heard learned counsel parties, I have perused Annexure-P/3 in which the age of the petitioner was recorded as 22 years as on 16.2.73 whereas, in the service excerpts (Annexure-P/4) the age of the petitioner was recorded as 26 years as on 26.6.72 which is contrary to Annexure-P/3.

Learned counsel for the petitioner submitted that without any basis the above age was recorded. The petitioner is an illiterate person. In the circumstances, respondent No.3 ought to have sent the petitioner for examination by the Medical Board for the purpose of determination of the age of the petitioner by the age determination committee.

In view of Annexure-P/3 and P/4 when there was discrepancy in the date of birth recorded in the service record, the respondents ought to have resorted to the procedure envisaged in the National Coal Wage Agreement III Implementation Instruction No.76 dated 25th April, 1988. When there was no school leaving certificate, then proper course for the respondents was to refer the matter to the Age Determination Committee as per clause C which lays down that "Age Determination Committee/Medical Board for the above will be constituted by the management, in the case of employees whose date of birth cannot be determined in accordance with the procedure mentioned in B (i) (a) or B (i) (b) above, the date of birth recorded in the records of the Company,

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आदेश पत्रक

मामला क्रमांक WP 2407/06 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

namely, Form B register, CMPF records and Identify Cards will be treated as final. Provided that where there is a variation in the age record in the records mentioned above, the matter will be referred to the Age Determination Committee/Medical Board constituted by the management for determination of age." Since there is variation in the age recorded in the records CMPF (Annexure-P/3) and service excerpts (Annexure-P/4), therefore, proper course for the respondents was to adopt the procedure as per clause C of the Implementation Instruction No.76 and refer the matter of the petitioner before the Age Determination Committee/Medical Board.

It is stated that as per respondents' records the petitioner is going to retire on 30th June 2006, therefore, respondents are directed to refer the matter of the petitioner to the Age Determination Committee within a period of one week from the date of receipt of copy of this order and the Age Determination Committee to decide the age of the petitioner before he attains the age of superannuation i.e. last day of June, 2006. Respondents to act upon the report given by the Age Determination Committee. The decision taken by respondents based on the report of Age Determination Committee be communicated to the petitioner immediately.

The writ petition is disposed of accordingly.

Consequently, M.(W.)P. No.1818/2006 and I.A. No.4798/2006 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Barve

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